



**The Voice of Small Business**

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**Testimony on House Bill 4128 and Proposed MIOSHA Ergonomics Standard  
House Regulatory Reform Committee  
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My name is Charlie Owens and I am the State Director for the National Federation of Independent Business, an organization providing legislative advocacy for Michigan small businesses owners.

I come before this committee today to voice our strong support for House Bill 4128 that would prohibit MIOSHA (Michigan Occupational Health & Safety Administration) from further attempts to develop a Michigan specific ergonomics standard that would be imposed upon Michigan's job providers. While we greatly appreciate Governor Snyder's announcement that development of a Michigan specific ergonomics rule would not continue during his administration, we feel that it is important to codify this decision into law.

Federal OSHA spent more than ten years trying to promulgate an ergonomics regulation. The ergonomics rule finalized by OSHA in 2000 was 10 pages, with approximately 1600 pages of appendices. We see a similar pattern here with the illusion of a short draft rule (two pages) and appendices of nine pages that are vague and overly broad in their application and references to other data sources that serve to expand the rule.

Federal OSHA's proposed rule would almost certainly have been the most expensive mandate ever imposed on business, and this rule you are developing will certainly not encourage business in Michigan during this most difficult of economic times. Recognizing the questionable benefits of a federal rule, relative to its economic consequences, Congress passed, and President Bush signed, a Joint Resolution of Disapproval of the OSHA ergonomics regulation. In April of 2002, OSHA announced voluntary ergonomic guidelines in lieu of a rule. Rather than follow the federal lead, and that of every other state (except California), MIOSHA, primarily motivated by staff, took it upon itself to move forward with a specific enforceable ergonomics standard.

The two MIOSHA standards commissions (General Industry Safety Standards Commission and the Occupational Health Standards Commission) that embarked on this process back in 2002 did so with almost no public process or notice to the business community. Although the commission meetings are open to the public, there was no indication that the commissions were about to promulgate a state specific ergonomic standard and most business representatives and public policy stakeholders were not made aware of the gravity of the commission's activities. The time for public and business input

should have been before these decisions were made, and not after. Certainly the commissioners should have been aware of the controversy surrounding this issue after OSHA was forced to withdraw the federal rules. For the commissions to act as they did on this issue reflects poor stewardship of the public's trust. Defenders of the commission's actions have argued that this is just the beginning of a long process before any rule comes to fruition, but the fact of the matter is that the critical decision of whether a rule is necessary in the first place was already made back in 2002 without appropriate public input.

Over the period of time that the appointed Ergonomics Advisory Committee developed a draft rule, commission and administration staff have repeatedly made public statements in the press and before your committees that were inaccurate and misleading as documented in the handout I have provided to the committee with this testimony.

We once again submit that this rule is not, nor ever has been, necessary to protect the safety and welfare of Michigan workers. An examination of data from the two states that did adopt specific ergonomics rules, California and Washington State (Washington's voters wisely threw the rule out by referendum in 2003), shows that the predicted benefits never materialized. In fact, ergonomics standards have proved less effective than voluntary initiatives. In a comparison of injury data from California and Washington with the rest of the nation, the national rate for ergonomic related injuries has dropped steadily and significantly in each of the past six years, while the rates in those states have been inconsistent. In fact, Washington State's ergonomic injuries increased after the standard was adopted, and the rate did not drop below pre-standard levels until the rule was repealed in 2003. Claims that MIOSHA cannot act to protect workers against ergonomic related injuries without this rule are also misleading. MIOSHA has that authority under the general duty clause and has taken action under the general duty clause in past cases. In particular we find it unconscionable that some of the management representatives on the Advisory Committee attempted to exempt themselves from this regulation while foisting it upon Michigan small business. A study conducted by the RAND Corporation found that small business workplaces were found to be among the safest places to work. Yet the draft rule developed by the Advisory Committee gives no quarter to Michigan small business.

Finally, during a time when Michigan has been shedding jobs by the thousands, we find it incredible that this state agency embarked on a mission to make us only the second state in the country, besides California, to have a state specific ergonomics standard replete with fines, penalties and compliance enforcement. Many other states wisely followed the federal OSHA lead and took a voluntary approach to ergonomics programs for employers. As mentioned previously, Washington State repealed its state specific ergonomic standard by ballot initiative in November of 2003. For Michigan to move in the opposite direction by seeking to adopt a state standard certainly does not seem to indicate that we are serious about saving and creating jobs in Michigan. In addition to the negative message that such an action sent to job providers, it is also important to note that at a time of budget deficits the cost to state and local governments to administer a new ergonomics program for government employees has been estimated at somewhere between \$53.7 to 101.1 million.

To conclude, we urge the committee to report this bill to the full House for action and end this sad chapter of almost a decade of wasted time and effort that has discouraged employers in our state and sent a negative message to potential job providers.